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COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1993

Addendum

JAMAICA

[25 January 1994]

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Introduction

1. Jamaica is the largest English-speaking island and the third largest island in the Caribbean sea. With a total land area of 4,411 square miles, the island had an estimated population of 2,392,000 at the end of 1989. About 96 per cent of the population is of African descent, with small proportions being of East Indian, Chinese and European extract. Table 1 below gives the population breakdown by sex and age. It is estimated that about 39 per cent of the population is under 18 years old.

Table 1

Estimated population of Jamaica, 1989

Age group	Both sexes Number ('000)	Per cent	Females Number ('000)	Sex ratio (Males per 100 females)
0-4	265.84	11.1	131.41	102.3
5-9	267.87	11.2	133.03	101.4
10-14	273.75	11.4	133.10	105.7
15-29	753.51	31.5	378.55	99.1
30-64	641.85	27.3	329.79	97.7
65+	179.31	7.5	95.22	88.3
TOTAL	2 392.13	100.0	1 201.1	99.2

2. The legal structure in Jamaica resembles closely the system in the United Kingdom, of which it was a colony until 1962, when it achieved independence. It provides for a Magistrates Court, a Supreme Court and a Court of Appeal which hears cases on appeal from the Magistrates and Supreme Courts. There is also a Family Court, which combines a social service and a court of law, which deals with all family matters save divorce. Persons involved in matters dealt with in the Family Court can also have the right of appeal.

I. GENERAL MEASURES OF IMPLEMENTATION

Measures taken to harmonize law and policy with the provisions of the Convention

3. Jamaica's Five Year Development Plan for Children, which was written in 1990 for the years 1990-1995, states that:

> "The contribution of the United Nations Convention on the Rights of the Child to the legislative process in Jamaica is acknowledged, as is its contribution as a guideline by which the development of services for children can be charted within the overall objective of the Five Year Development Plan. The Convention will be used as a basis for the

Development of National and Sectoral Policies for children and therefore integrated into the consultation, formulation and implementation strategies of national and sectoral policy development, and resultant Plan of Action."

4. As an example of the effort to pursue this intent:

(a) The Planning Institute of Jamaica has held workshops, in collaboration with six non-governmental agencies, to sensitize both governmental and non-governmental agencies on the provisions of the Convention. These workshops were held both in Kingston, the capital city, and Montego Bay and made recommendations to the Government concerning steps to be taken to prepare the services and the society at large for the implementation of the Convention;

(b) A committee including representatives of governmental and non-governmental organizations and supported by the United Nations Children's Fund has undertaken to hold a series of workshops with all agencies dealing with children and eventually to utilize their input to design a plan of action to pursue the goals of the World Summit for Children, which are regarded as a crucial prerequisite to achievement of the implementation of the Convention.

5. As Article 4 of the Convention suggests, the United Nations Children's Fund has played a major supportive role in the country's efforts to harmonize national law and policy with the provisions of the Convention "within the framework of international cooperation". In this regard, mention must be made of the country programme for Children in Especially Difficult Circumstances, which has been implemented through the Ministry of Youth and the Ministry of Health. This programme is directly contributory to the country's efforts to implement Article 25.

6. UNICEF has also supported the work of the Specialist Committee on Child Abuse, a voluntary committee established by the Ministry of Youth, with terms of reference which include promoting the reform of legislation affecting children, by funding workshops for the training of the staff of agencies which deal with children.

7. Although the Government of Jamaica (GoJ) has fully recognized its responsibility, as a signatory of the Convention, to make its principles and provisions known to adults and children alike, the most active agency in this regard has been the Jamaica Coalition on the Rights of the Child, a combination of non-governmental organizations which include the Council of Voluntary Social Services (CVSS); Save the Children Fund (UK); the Jamaica Foundation for Children (JFC); Canadian Save the Children Fund (CANSAVE); Jamaica Save the Children Fund (JAMSAVE); Jamaica Association of Social Workers (JASW); the United Nations Children's Fund (UNICEF).

8. The Coalition was formed in 1989 with the following objectives:

(a) To lobby the Government of Jamaica to include the Convention on the Rights of the Child in all Government of Jamaica plans, policies and programmes;

(b) To contribute to the process of legal reform which impacts on the rights of children;

(c) To educate the general public about the rights of children;

(d) To assist social service organizations to understand and prepare for the implementation of the Convention.

9. The member agencies of the Coalition have been tireless in their efforts to educate the public on the Convention as they have been unflagging in their efforts to "lobby the Government of Jamaica to include the Convention on the Rights of the Child in all Government of Jamaica plans, policies and programmes". Their activities have included the formation of groups islandwide operating with the Mission Statement: To provide a vehicle for educating the public on the Convention and to promote the Rights of the Child in Jamaica.

10. Their goals are the following:

(a) Macro-level education - to educate and sensitize relevant sectors within the NGO community, GoJ and the public on the Convention and related issues;

(b) Legal reforms - to assist legislators to examine existing laws with a view to making amendments in keeping with the Convention, as well as to act as a catalyst for implementing necessary system changes;

(c) Assisting with implementation of the Convention/World Summit Plan of Action - to ensure their efficient and effective implementation by NGOs, government bodies and other relevant groups and individuals.

11. With regard to the measures, pursuant to Article 44, paragraph 6, of the Convention, chapters of the current report were circulated in draft form to the various ministries, departments and agencies to which they relate and the final report is a synthesis which includes their views, in so far as this was possible. The final report is now being made available to the Jamaica Information Service with the request that highlights should be circulated to all sections of the society through both print and electronic media.

12. In the general implementation of the Convention, there has been some difficulty in integrating the terms of the Convention into the day-to-day implementation of government policies. This is largely due to frequent changes of both political leadership and administrative personnel within the government ministries and department which are affected by the Convention. It is hoped that this situation will improve with time and public education. It may be that more than public education is needed. The Ministry of Youth is currently considering a proposal by the Specialist Committee on Child Abuse to undertake a review of the legislation affecting children using the articles of the Convention as a guideline. This proposal, when implemented, may facilitate the process of integration.

II. DEFINITION OF THE CHILD

13. In addition to giving information on the various points raised in this section, an outline of the relevant legislation is provided. (Reference is made to para. 7 of the "Guidelines".) As the laws are too numerous and bulky to supply them as annexures, the actual wording of the legislation is quoted where necessary to provide for the greatest degree of clarity.

14. The Age of Attainment of Majority in Jamaica is 18 years. It was 21 until 30 April 1979, when the Law Reform (Age of Majority) Act came into effect. Section 3 (1) of this Act provides that:

> "As from the appointed day (30 April 1979) a person shall attain the age of majority and be of full age and capacity on attaining the age of 18 years instead of on attaining the age of 21 years."

15. The same Act relates to Legal Minimum Age for the receipt of medical counselling without parental consent. Section 8 (1) provides that:

> "Where a minor has attained the age of 16 years, his consent in respect of any surgical, medical or dental treatment to himself shall be as effective as it would have been if he were of full age."

> The law also states that:

> "In this section 'surgical, medical or dental treatment' includes any procedure undertaken for the purposes of diagnosis in respect of any surgical, medical or dental matter and any procedure ancillary to any such surgical, medical or dental treatment."

16. There is no specific provision of an age established for legal counselling without parental consent, but current practice suggests that this would depend on the maturity of the minor and the matter on which the legal counselling was required.

17. Section 20 of the Education Act provides that the Minister (responsible for Education) shall by order declare:

(a) Any area within a radius of three miles from any school specified in such order to be a compulsory education area; and

(b) The compulsory school age in relation to such compulsory education area.

The minimum school leaving age declared by the Minister under this legislation is 14 years.

18. At this point it is necessary to mention, in a general way, the Juveniles Act, because its provisions include some of the information required in this section and, in some cases, impinge on the provisions of other legislation for the protection of children and young persons.

19. The Juveniles Act defines as a "juvenile" a person under the age of 17 years and subdivides this group into "child", meaning a person under the age of 14 years, and "young person", meaning a person who has attained the age of 14 years and is under the age of 17 years. This Act provides for the minimum age at which a person has criminal li bility, matters relating to the employment of children, giving testimony in court, and the consumption of alcohol by children.

20. The legal age at which a child may undertake part-time or full-time employment is not clearly defined. Section 71 (1) of the Juveniles Act provides that no child under the age of 12 years shall be employed. Section 71 (2) of the same Act provides that:

"No juvenile shall be employed

(a) If under the age of 15 years, in any industrial undertaking; or in or upon any ship other than a ship where only members of his family are employed; or

(b) If under the age of 16 years, in any night work."

Section 75 provides that "No person shall:

> employ, for reward or otherwise, any boy or girl under 16 years of age in or about the feeding of a mill."

21. To summarize these provisions:

(a) The minimum age for the employment of a child is 12 years;

(b) The minimum age for the employment of a juvenile in any industrial undertaking or on a ship is 15 years;

(c) The minimum age for the employment of a juvenile in night work or hazardous employment (e.g. feeding of a mill) is 16 years;

(d) The law is silent as to whether all such employment should be part-time or full-time.

22. The age of sexual consent is provided for in the Offences Against the Person Act. Section 54 states that:

> "It shall be no defence to a charge or indictment for an indecent assault on a young person under the age of 16 years to prove that he or she consented to the act of indecency."

23. A person may enter into a marriage legally at 16 years of age with the consent of a parent or guardian except in the case of a widow or widower or at 18 years of age without the consent of any other person. Section 3 (2) of the Marriage Act states that:

> "A marriage solemnized between persons either of whom is under the age of 16 years is null and void."

Section 24 of the same Act provides that:

> "Persons who have reached the age of 18 years and widowers or widows may marry without the consent of others. Where a person under 18 years of age not being a widower or widow intends to marry, the father, or if the father is dead, the lawful guardian/guardians or if there is no such guardian the mother, if unmarried or such person shall have authority to consent to the marriage of such person, and such consent is hereby required unless there is no such person authorized to give it resident in this Island.
>
> "If the parent or guardian whose consent is necessary is non compos mentis or unreasonably withholds consent to the marriage of any person, either party to the intended marriage may refer the matter to a Judge of the Supreme Court who shall decide upon the same in a summary way, and if the proposed marriage appears upon examination to be proper, the Judge shall certify the same, and his certificate shall be as good and effectual as if the necessary consent had been given."

24. A person may enlist voluntarily into the armed forces at the minimum age of 18 years. Section 5 (2) of the Defence (Regular Force Enlistment and Service) Regulations provides that the Recruiting Officer shall satisfy himself that the person offering to enlist is, or as the case may be, is not over the apparent age of 18 years.

25. There is at present no system of conscription into the armed forces in the country.

26. The law does not state precisely the age at which a child may voluntarily give testimony in court, but rather seeks to provide safeguards to ensure that a child who gives testimony understands the duty of speaking the truth and that his privacy is protected. On the former point, Section 54 (1) of the Juveniles Act provides that:

> "Where in any proceedings against any person for any offence, any child of tender years called as a witness does not, in the opinion of the court, understand the nature of an oath, his evidence may be received, though not given upon oath, if, in the opinion of the court, he is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth ..."

27. On the latter point, Section 53 of the Juveniles Act provides that:

> "Where, in any proceedings in relation to an offence against, or any conduct contrary to, decency or morality, a person who, in the opinion of the court is a juvenile is called as a witness, the court may direct that all or any persons not being members or officers of the court or parties to the case, their counsel or solicitors, or persons otherwise directly concerned in the case, be excluded from the court during the taking of the evidence of that witness."

Also, section 56 states that:

"No newspaper report of the proceedings shall reveal the name, address, or school, or include any particulars calculated to lead to the identification, of any juvenile concerned in the proceedings, either as being the person against or in respect of whom the proceedings are taken or as being a witness therein."

28. The age of criminal liability is 12 years. In the words of section 3 of the Juveniles Act, "It shall be conclusively presumed that no child under the age of 12 years can be guilty of any offence."

29. The right to liberty is enshrined in section 15 (1) of the Jamaican Constitution which states that:

"No person shall be deprived of his personal liberty save as may in the following cases be authorized by law ..."

This is followed by a number of alternative examples of the circumstances under which the deprivation of liberty may be authorized by law; one such example is:

"In the case of a person who has not attained the age of 21 years, for the purpose of his education or welfare."

30. This provision is contradictory to that in the Legal Reform (Age of Majority) Act which has already been mentioned in this section of the report and which gives 18 years as the age at which a person shall be "of full age and capacity". However, the Age Of Majority Act came into effect in 1979 and the Constitution was written in 1962, which may account for this apparent anomaly. It is anticipated that the relevant age in this section of the Constitution will eventually be reduced from 21 years to 18 years.

31. The minimum legal age at which a person can be imprisoned is 17 years.

32. The minimum age for the consumption of alcohol by a child is dealt with in section 9 (2) of the Juveniles Act, which provides that

"any person ... who gives, or causes to be given, or sells or causes to be sold to any child under the age of 10 years any intoxicating liquor ... shall be deemed to have ill-treated that child in a manner likely to cause injury to the child's health."

The same matter is mentioned in the Spirit Licence Act. Section 62 provides that:

"Every holder of a licence under this Act who serves or permits to be served or sold to any person under the age of 16 years any alcoholic liquor for consumption on the premises ... shall be guilty of an offence."

33. The provision in the Juveniles Act appears to refer to the giving of alcohol to any child anywhere as an act of abuse, while the reference in the Spirit Licence Act addresses specifically the consumption of alcohol by children on licensed premises.

III. GENERAL PRINCIPLES

34. In an enlightening paper written by D. O'Donnell of Defence for Children International and published in Volume 63 of the Bulletin of the Inter-American Children's Institute, he articulates the notion that "Article 2 (of the Convention on the Rights of the Child) broadens the protection laid down in other instruments ... prohibiting not only discrimination based on individual characters, but also discrimination against a child, based on the characteristics of the child's parents or guardians". To develop this concept, a child could be discriminated against because of his personal characteristics such as, say, a handicap, but more likely the discrimination arises from characteristics which he derives from his parents and guardians such as his race, colour or sex.

35. In this context, the Jamaican Constitution offers protection to every person, including a child. A chapter entitled "Fundamental Rights and Freedoms" begins with the statement,

> "Whereas every person in Jamaica is entitled to the fundamental rights and freedoms of the individual, that is to say, has the right, whatever his race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely:
>
> (a) life, liberty, security of the person, the enjoyment of property and the protection of the law;
>
> (b) freedom of conscience, of expression and of peaceful assembly and association; and
>
> (c) respect for his private and family life,
>
> the subsequent provisions of this Chapter shall have effect for the purpose of affording protection to the aforesaid rights and freedoms, subject to such limitations of that protection as are contained in those provisions being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest."

36. The remaining sections of the Constitution afford protection to the rights outlined in the all-embracing provisions quoted above which are parallel to those outlined in the Convention.

IV. CIVIL RIGHTS AND FREEDOMS

37. Under the Registration of Birth and Deaths Act, the law requires that every child should be registered immediately after birth and the administrative duties of every Registrar islandwide include the responsibility to ensure that every child born in his district is registered. There is a central registry to which every birth which is so registered must be recorded and the Certificate of Birth is an important document for every parent who wishes to enrol his child in school or to travel abroad and for every adult who wishes to obtain a driver's licence or a passport. These regulations enable the country to satisfy the principles outlined in articles 7 and 8 of the Convention.

38. The right of children to enjoy freedom of expression, freedom of thought, conscience and religion and freedom of peaceful assembly is enshrined in Section 21 of the Constitution, which states that:

> "(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this section the said freedom includes freedom of thought and of religion, freedom to change his religion or belief, and freedom either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.
>
> "Except with his own consent (or, if he is a minor, the consent of his parent or guardian), no person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observance if that instruction, ceremony or observance relates to a religion or a religious body or denomination other than his own."

39. Section 23 of the Constitution provides that:

> "Except with his own consent, no person shall be hindered in the enjoyment of his freedom of peaceful assembly and association, that is to say, his right peacefully to assemble freely and associate with other persons and in particular to form or belong to trade unions or other associations for the protection of his interests."

40. These constitutional provisions for the freedoms of persons (including children) must be restricted by the rights of parents which are set out in article 14 (2) to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child. The same applies to the child's right to privacy, which is protected under a principle of common law.

41. In recent years, guidance counsellors, parents and teachers have been encouraged to attend seminars and workshops at which the child's right to express himself has been emphasized. This has been an area of weakness in the national administrative arrangements. For many years the principle that "children should be seen and not heard" in home and school existed, but this

is gradually being replaced where children are encouraged to participate at every level and the World Summit for Children has provided an important model to encourage this trend.

42. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment is also enshrined in the Jamaican Constitution.

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

43. In theory, the principal legislative, judicial and administrative measures in force in Jamaica give full recognition to the principles outlined in the Convention, particularly as they affect the "best interest of the child". This concept is emphasized in the Children's (Custody and Guardianship) Act which provides that "Where in any proceeding before any Court the custody or upbringing of a child ... is in question, the Court in deciding that question, shall regard the welfare of the child as the first and paramount consideration ..." However, some factors within the society restrict the extent to which these principles are applied in practice. These factors are common to all the articles mentioned in this section and to a great extent they interact with each other.

44. The legal responsibilities and duties of parents and guardians are set out in section 9, subsection 2a, of the Juveniles Act which provides that a "parent or other person legally liable to maintain a juvenile shall be deemed to have neglected him in a manner likely to cause injury to his health if, being able to do so, such parent or other person fails to provide adequate food, clothing, rest, medical aid or lodging for him". The Maintenance Act outlines, inter alia, the responsibility of parents to maintain their children and the Education Act states, "It shall be the duty of the parent of every child of compulsory school age residing in a compulsory education area to cause him to receive full-time education suitable to his age and ability, and satisfactory to the Educational Board for the area, either by regular attendance at school or otherwise."

45. In summary, therefore, parents have the responsibility to provide adequate food, clothing, rest, medical aid, lodging and education for their children. However, difficulty is sometimes experienced by parents, however willing, because of economic conditions. In the most recent census, approximately 800,000 persons live below the poverty line and 42 per cent of the family units are one parent households.

46. Similarly, the Maintenance Act provides that parents have the responsibility to maintain their children thus seeking to ensure that every child has a standard of living adequate for his physical, mental, spiritual, moral and social development (art. 27). There is similar provision in the Maintenance (Facilities for Enforcement) Act, which administers reciprocal arrangements and enables the parent/guardian of a child to enforce orders made in Jamaica in Commonwealth countries and parts of the United States. The necessary machinery exists within the court system to enforce these arrangements but here, again, the intent of this legislation is sometimes frustrated by factors such as the difficulties and expense of finding delinquent fathers in other places, both inside and outside the country.

47. The Convention suggests the remedy to the negative situation which arises where the parents are living separately or the child is the victim of abuse or neglect, and both Jamaican law and practice conform faithfully to the procedures outlined in article 9. However, here again the intent of the law is sometimes frustrated because of the unavailability of funds in the national budget to support suitable institutions for the care of children.

48. An example of Government's inability to enforce legislation because of economic constraints can be seen in the fact that certain geographical areas are prescribed as "compulsory education areas", and it is compulsory for parents within these areas to send their children to school. But the law is sometimes not enforced because of the lack of funds to employ Attendance Officers to monitor the system.

49. There are a number of public and private agencies which provide the machinery to ensure that the rights of the child as outlined in articles 10, 20 and 21 are observed:

(a) The Family Court administers the Children's (Custody and Guardianship) Act, which determines, in cases where parents do not live together, which parent shall have custody of the child. In a case where one parent is resident in another country, the Court often gives permission on an ongoing basis or for each individual occasion, depending on the circumstances, for the child to visit the absent parent, subject to the visa requirements of the foreign country. Similarly, the Court awards visiting rights to parents who are separated from their children by court order in respect of custody or residence in an institution. The Family Court also administers all family laws (save divorce) and at all times has regard for the best interest of the child;

(b) The Children's Services have statutory responsibility for the investigation and supervision of children who are in need of care and protection or are beyond parental control. They are responsible for recommending to the Court the placement of children in institutions in foster care, supervising their progress and for evaluating such placement (arts. 20 and 25).

50. Adoption is permitted after investigation of the child's circumstances and the health of both child and adoptive parents. The adoption must be recommended by an Adoption Board and approved by the Family Court. The process includes certain safeguards such as a waiting period of six weeks after birth before a mother can sign consent for her child to be adopted and a three-month probationary period before the court order becomes final. Inter-country adoption is allowed with certain countries which have bilateral agreements with Jamaica (art. 11). At this time these include all Commonwealth countries, the United States, Sweden and Denmark.

51. The laws and system in Jamaica provide basic protection of the child from maltreatment by parents. In that connection, the Juveniles Act, administered by the Family Court, makes it an offence for an adult who has the custody, charge or care of a child to "wilfully assault, ill-treat, neglect or abandon (such child)" and the child so mistreated can be taken before the Court as in need of care and protection by a police officer, a probation officer or a

children's officer. The Children's Services and the Family Court have appropriate mechanisms, including a hot-line for the reporting of suspected abuse by members of the public, and staff to follow up such reports.

52. During the last decade, there has been increasing public awareness of the need to protect children from abuse and neglect (art. 19) and to promote the recovery of abused children from the trauma of their experiences (art. 39). This upsurge of public interest has been influenced by:

(a) The ratification of the Convention in 1991 and the publicity preceding it;

(b) The activities of the Coalition on the Rights of the Child and its influence in the wide spectrum covered by its members;

(c) The activity of a Specialist Committee on Child Abuse set up by the Minister of Youth in 1989 to implement the recommendations of a Task Force on Child Abuse, which operated in 1988 to:

(i) Investigate alleged reports of child abuse by the business and commercial sectors, e.g. child prostitution and child pornography;

(ii) Coordinate the results of various research by organizations and individuals and make one recommendation package;

(iii) Review the laws dealing with child abuse and examine the extent of coverage given by those laws, and make whatever recommendations the Committee deems necessary to update those laws;

(iv) Seek the views of individuals and agencies who have done work on child abuse and child-care activities;

(v) The Committee's report and recommendations were to be submitted to the Honourable Minister of Youth and Community Development by 9 September 1988.

53. The Task Force, which included representatives of the judiciary, police and social work agencies, both governmental and non-governmental, conducted an intensive investigation into the laws and the system and made recommendations, inter alia, for counselling for the families of abused children and a referral and recording system for the reporting of child abuse. Reform in legislation to enable some of the social measures recommended by the Task Force have been implemented and Government has accepted, in principle, the need for amendment of legislation. (The tables in annex I refer to this section of the report.)

VI. BASIC HEALTH AND WELFARE

54. The principal legislative and judicial measures in force under this heading are:

(a) The Public Health Act, which governs a wide spectrum of health-related activities affecting both adults and children, such as the establishment of a Central Health Committee and Local Boards; the functions of these bodies as they affect public sanitation; the powers of the relevant Minister to require the investigation of disease and to make regulations generally to carry out the provisions of the Act; and

(b) The Public Health (Immunization) Regulations of 1986, which were made by the Minister in exercise of the powers conferred by section 14 of the Public Health Act, which states specifically "The Minister may make regulations generally for carrying out the provisions and purposes of this Act. ..."

55. Failure of a parent or guardian to comply with these regulations is an offence, and on summary conviction in a Resident Magistrate's Court, the parent or guardian is liable to a penalty.

56. A copy of the Public Health (Immunization) Regulations is attached to this report as annex II. It is noteworthy that section 3 (2) of these Regulations states "immunization performed ... for the purpose of these Regulations is free", thus ensuring that this service is accessible to all children.

57. The Minister of Health has final responsibility for the administration of matters affecting the health of children. There is a Permanent Secretary who, with the assistance of a number of Directors, is responsible for various administrative areas and a Chief Medical Officer who, in turn, leads a number of health professionals supported by various paramedical personnel. The organizational chart at annex III outlines the structure on an islandwide basis, while annex IV outlines the parish structure which reports, through a Medical Officer of Health, to the Chief Medical Officer.

58. Communication within this complex structure is assured by monthly meetings of senior managers and weekly meetings within units.

59. Perhaps within this Ministry more than any other, some progress has been made in the implementation of the Convention. Certainly, there has been a great deal of activity. Over the past three years there has been an increase in the number of children who are able to access health services, although progress in this area has been impeded by the lack of a sufficient number of health workers at all levels to deliver quality care.

60. Services to the disabled child have also been increased in accordance with article 23, both as regards special care and education. There has been an increase in public awareness of the needs of the disabled, largely due to the activities of a number of non-governmental organizations which have combined to provide a formidable instrument for advocacy.

61. The cause of the disabled child has also been promoted by support from UNICEF in a country programme for Children in Especially Difficult Circumstances and the attempts by the combined group and UNICEF to formulate special legislation to protect the rights of the disabled. One serious area of weakness is the lack of facilities for the rehabilitation of the disabled. There is only one major central rehabilitation centre sponsored by Government and health professionals have been canvassing for the provision of regional or parish centres to make the care and rehabilitation of the disabled child more accessible.

62. The health of children in government care is part of the responsibility of health professionals, who assess the health status and environmental conditions of government children's homes on a quarterly basis and provide health care as needed to the children. This activity is also hampered by the lack of transportation to enable health professionals to carry out these visits on a regular basis.

63. With regard to health services (art. 24), emphasis is placed on specific groups within areas where the health status is below national targets. In addition to providing services, there is an aggressive public education programme on all targets, e.g. immunization, control of diarrhoeal diseases, breast-feeding, adequate infant nutrition and the promotion of prenatal and post-natal care. The public education programme includes the use of the mass media, dramatization, brochures and videos.

64. In general, there has been improvement in the health status of children, as is illustrated by the following indicators:

(a) Control of diarrhoeal disease. The improvement under this heading between 1989 and 1992 is shown in table 2 below:

Table 2

Number of diarrhoeal cases yearly

Year	Population less than five years old	No. of diarrhoeal cases
1989	275 600	26 766
1990	282 035	14 459
1991	288 073	13 437
1992	285 800	13 294

(b) Percentage prevalence of severe malnutrition, 1989-1991. The reduction of this item is shown in table 3:

Table 3

Percentage prevalence of malnutrition 1989-1001

Survey	Low weight for age		Total
	Moderate	Severe	
SLC 1989-2	6.5	0.8	7.3
SLC 1990	7.9	0.4	8.3
SLC 1991	9.0	0.0	9.0

(c) Number of maternal deaths. This is shown in table 4:

Table 4

Number of maternal deaths

	1990	1991	1992
All hospitals	37	36	26
Victoria Jubilee	10	5	10
All Type B hospitals	12	11	9
All Type C hospitals	7	15	3
Other Type A hospitals: University and Cornwall Regional Hospitals			
Type B hospitals: Regional hospitals with obstetricians and paediatricians			
Type C hospitals: Small hospitals without obstetricians or paediatricians			

(d) Breast-feeding. An aggressive public education programme, "The Breast is Best" has increased awareness and increased the number of mothers who breast-feed their babies.

65. With regard to the nature and extent of cooperation with local and national organizations, the Ministry of Health is represented on many inter-ministerial committees. Through a Bureau of Health Education, they meet twice yearly with non-governmental organizations to discuss programmes. They offer training:

(a) To the Association of Guidance Counsellors;

(b) In midwifery to private hospitals;

(c) To various groups, such as prison warders, church groups, community groups and private clinics, and supply various groups with condoms.

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

66. The principal legislative and judicial measure in force under this heading is: the Education Act, which makes legal provision for all matters relating to statutory education. The structure of the school system which it prescribes is outlined in Part III - The Statutory System of Education, which states that:

> "(a) primary education, which shall consist of full-time education generally suitable to the requirements of students who are not over the age of twelve years and, for the purposes of this Act, shall include education;
>
> "(b) secondary education, which shall consist of full-time education generally suitable to the requirements of students who have attained the age of eleven years and are not over the age of nineteen years; and
>
> "(c) tertiary education, which shall consist of:
>
> "(i) full-time education other than primary or secondary education;
>
> "(ii) part-time education; and
>
> "(iii) leisure-time occupation in organized cultural training and creative activities, available in pursuance of any provision made under this Act for further education for students who have attained the age of fifteen years."

67. This law is administered in the Family Court (see para. 49 (a)) and, in exceptional circumstances, in the Supreme Court. The administration is controlled by the Ministry of Education which is headed by a Minister, who has overall responsibility for its operations. There is a Permanent Secretary, a member of the civil service and the Chief Education Officer who has final responsibility for the day-to-day management of the Ministry's programmes with the assistance of a number of deputies, who manage individual programmes. The organizational chart of the Ministry of Education is attached as annex V.

68. Strategies and mechanisms are monitored through an Executive Committee, which includes the Minister, the Permanent Secretary, the Chief Education Officer and Senior Directors and meets twice monthly. Policy decisions emanating from these meetings are disseminated through the Chief Education Officer to technical staff.

69. The policies of the Minister are, for the most part, in keeping with the principles outlined in the Convention. However, there are two outstanding factors which restrict the extent of their implementation:

(a) It is difficult to implement compulsory education. Although this has always been the ideal and is provided for by the Education Act, an early experiment to use officers in a literacy programme to monitor attendance was unsuccessful because penalties were never enforced. This problem relates to

the financial status of some parents and the lack of availability of funds in the Ministry's budget to pay Attendance Officers. As a result of these factors, there is only about 72 per cent average attendance in primary schools although nearly 100 per cent of the country's children are registered in school;

(b) The cost of education makes it difficult to reach the desirable goal set out in article 28 to make secondary education available and accessible to every child. Even at this time and with a deep consciousness of the provisions of the Convention, the national economy has made it necessary for Government to embark on a cost-sharing venture, in which resources are being redirected from secondary to primary level.

70. In an effort to counter the impact of these charges, Government has given the undertaking that no child will be denied secondary education because of an inability to pay. At the same time, increased costs of education at the tertiary level are being met by an expanded Student Loan Scheme with support from the private sector.

71. The problems which have been cited above are common to all aspects of education. With special regard to education relating to vocational training, a factor which creates difficulty is the high cost of providing and maintaining equipment in this area. The cost of retaining qualified teachers is also high. The rate of attrition is high because although the salaries offered to teachers in this field are no lower than those offered to all teachers, it is easier for persons with relevant skills to find employment in the private sector.

72. As a positive step and a symptom of progress, the Ministry of Education is currently conducting a tracer study of graduates of all kinds of secondary and vocational schools to determine whether the programmes adequately prepare them for employment. This study is intended to provide a base for future planning.

73. The Ministry of Education has in its Mission Statement a very similar aim to that stated in article 29 of the Convention, that is, to allow each child to develop his or her full potential. However, certain factors restrict the fullness of such development:

(a) Irregular attendance and its causes, mainly economic, have already been mentioned in this report;

(b) Language. Jamaica is an English-speaking country. However, there is a widely spoken dialect which is often a first language for a child from an underprivileged home and because it is spurned by the wider community and, until recently, by teachers, children have difficulty in adopting to formal language. This adjustment often impacts directly on the child's ability to learn to his fullest potential and indirectly on his self-esteem;

(c) The Common Entrance Examination, which is the criterion for entry of children into secondary schools at 11+, presents a problem because there are inadequate school places to accommodate all the children in the age group and in the last two years of primary school the children of 10 concentrate on

the rather narrow curriculum requirements of the Common Entrance Examination to the detriment of other subjects. Steps are proposed to correct this problem. Government has announced that by 1999 the Common Entrance Examination will be replaced by a National Assessment Programme Examination which will be curriculum-based and reintroduce subjects like creative writing, which has been eliminated from the Common Entrance Examination. The tables presented as annexes VI and VII relate to the Common Entrance Examination.

74. With regard to the cooperation with organizations, the Ministry of Education has representation on:

(a) The National Manpower Planning Co-ordination Committee, which looks at manpower needs and make representations to inform policy;

(b) All inter-ministerial committees of government agencies dealing with children.

They also offer technical assistance and training to the Association of Guidance Counsellors and monitor and offer subsidies to many non-governmental institutions for the vocational training of the young.

75. The Government of Jamaica fully recognized the right of the child to participate fully in leisure, recreation and cultural activities as set out in article 31. To this end, all government schools were built with adequate play areas and breaks for the purpose of recreational activities are included in the curricula. Unfortunately, the full exercise of this right is sometimes frustrated by the fact that, over time, an ever-growing school population has made it necessary to expand school buildings, which have encroached on space intended for play. In spite of these problems, children are constantly engaged in inter-schools events in cricket, football and athletics.

76. Children are encouraged to participate in cultural activities. An example of this is the annual Festival, in which all schools enter events in song and dance relating to their heritage. Children are also exposed to information about their national heroes and it has recently been proposed that the sayings of Marcus Garvey should be included in school curricula as an inspiration to children.

VIII. SPECIAL PROTECTION MEASURES

77. Children in situations of emergency. There are no legislative, judicial or administrative measures in force in Jamaica to deal with refugee children or children in armed conflicts for the reason that these situations are relatively unknown. Unattended refugee children in groups never arrive in this country and the few children who, in recent times, have arrived from neighbouring Haiti accompany their parents who are, for the most part, seeking to use Jamaica as an in-transit port to enter the United States. Such groups are housed and fed as a temporary measure, but there has so far been no need to provide special procedures for the benefit of the children. This applies even more to children in armed conflicts as Jamaica has not been involved in a war since the Second World War, in which, as a then-British colony, she was indirectly involved.

78. Children in conflict with the law. The administration of juvenile justice in Jamaica conforms with all the standards set out in article 40 of the Convention with particular reference to the safeguards in paragraph 2 (b) (i-vii) which stipulates that the child is presumed innocent until proven guilty (a safeguard which is also applicable to adult offenders), that the child should be informed directly or through his legal guardians of the charges against him or her, that the matter should be determined without delay by a judicial body and to have his or her privacy fully respected at all stages of the proceedings. This last safeguard is emphasized by the provision in section 57 of the Juveniles Act which was quoted in section 2 of this report and which forbids the publication of any "newspaper report of any proceedings in a Juvenile Court (which) shall reveal the name, address or school or include any particulars calculated to lead to the identification of any juvenile concerned in these proceedings".

79. In the system which now operates in Jamaica, the legislation which applies directly to children deprived of their liberty includes: the Juveniles Act, the Correctional Act and the Family Court (Judicature) Act. The agencies within which this legislation is enforced are the Children's Services, the Juvenile Unit within the police force, the Family Court and the Juveniles Court.

80. The Juveniles Act, in a section on Juvenile Courts and the Trial of Juvenile Offenders, provides, inter alia, for the separation of the juvenile in police stations or while being conveyed to or from any criminal court, or while waiting before or after attendance in any criminal court from adult offenders; for the bail of the juvenile or his remand in a place of safety if his trial cannot be completed on his first appearance in court; for the compulsory attendance of his parent or guardian at his court hearing; and the methods which the Court can apply in making an order for the treatment of the Juvenile. These options include:

(a) Dismissing the case;

(b) Bringing a probation order under the Probation of Offenders Act;

(c) Placing the offender either in addition to or without making any other order under this section for a specified period not exceeding three years under the supervision of a Probation and After Care Officer or some other person to be selected for the purpose by the Minister;

(d) Committing the offender to the care of any fit person, whether a relative or not, who is willing to undertake the care of him;

(e) Where the offender is a young person, ordering the offender to pay a fine, damages, or costs;

(f) Sending the offender to a juvenile correctional centre;

(g) Ordering the parent or guardian of the offender to pay a fine, damages or costs;

(h) Ordering the parent or guardian of the offender to enter into a recognizance for the good behaviour of such offender.

81. The Corrections Act, which in different sections deals with both adults and children, was passed in 1984 to satisfy, inter alia, the need to make newer and better provisions for the rehabilitation of offenders and, in keeping with modern thinking on the use of terminology in legislation of this kind, to introduce some new expressions to replace traditional terms. For example, the archaic term "approved school" has been replaced by "juvenile correctional centre".

82. These laws are administered within the Family Court, which was established under the Family Court (Judicature) Act in 1975 to deal with family matters and matters affecting juvenile offenders. It includes both social and legal services and the social service arm is manned by trained counsellors and social workers.

83. Before a child who is in conflict with the law is taken before the legal section of the Court, he (or she) and his parents are seen by a counsellor, and every effort is made to resolve his problems before he is taken before the judge. If this happens, the Court takes into account all the principles outlined in articles 37 (b) and (c).

84. Two factors in the operation of the Family Court system fall within the difficulties encountered, i.e.

(a) That the system which was established in 1975 as a pilot project to cover geographic areas inhabited by about 40 per cent of the country's population has not yet been expanded to include the whole island; and

(b) That, although the child is represented in court by the Children's Officer and in some cases by private lawyers, the effectiveness of the court system would be improved by the inclusion of a Children's Advocate to represent exclusively the interests of the child. There are active plans by Government to extend the Family Court system islandwide. It does not seem likely that the provision of a Children's Advocate will be affordable in the foreseeable future.

85. In 1991 a Juvenile Unit was established within the police force to deal exclusively with matters affecting juveniles who are in breach of the law. The police officers in this unit have received special training and their activities have proved very useful in the sensitive handling of children in conflict with the law.

86. Chapter III of the Constitution of Jamaica lists among its Fundamental Rights and Freedoms that "No person shall be subjected to torture or to inhuman or degrading punishment or other treatment". This right is fully observed in the official treatment of children in conflict with the law and neither capital punishment nor life imprisonment without possibility of release is imposed for offences committee by persons below 18 years of age (art. 37 (b)).

87. With regard to the physical and psychological reintegration of children who have been in conflict with the law, the public and Government of Jamaica have been increasingly aware of the need for such rehabilitation in recent years. One example of this is contained in the Corrections Act of 1985 which authorizes the Minister, under whose portfolio the subject falls, to classify juvenile correctional centres according to the ages of the persons for whom they are intended and the character of the education and training given in such centres. In addition, there are various training schemes, both within the institutions and as an aftercare measure, and the legal option of placing an offender under the supervision of a probation and after-care officer for a period not exceeding three years is designed to facilitate the physical and psychological recovery described in article 39.

88. Children in situations of exploitation. Economic exploitation through child labour is prohibited by legislation contained in section 71 of the Juveniles Act, which provides that

> "(1) No child under the age of twelve years shall be employed, save as provided by sub-section 2.
>
> "(2) A child under the age of twelve years may be employed by his parents and guardians
>
> "(a) in light domestic work, agricultural or horticultural work
>
> "(b) in any prescribed occupation:
>
> provided that no child under the age of twelve years shall be employed in night work or in an industrial undertaking."

89. The same Act provides that "where any person is employed in contravention of any of the provisions of this Part, any person to whose act, default or representations the contravention is attributable shall be guilty of an Offence against this Act."

90. In spite of these explicit provisions, which can be pursued in the Family Court, there is a problem of street children, mainly boys, who live and work on the streets, and who "work" at small tasks like the washing of windscreens in an effort to eke out a precarious living. The number of these children has grown from an estimated 50 to an estimated 2,500 within the past decade. Their presence in the streets can largely be attributable to poor economic conditions at home. This problem is being vigorously addressed by a number of governmental and non-governmental agencies with the support of UNICEF and the Government of Jamaica.

91. There is legislation to control the use of drugs among children in Jamaica, but it is not often used as a punitive measure because of the insidious nature of the phenomenon. A study in 1988 by the National Council on Drug Abuse revealed that one in every five post-primary school students has smoked marijuana, which has long been commonly used in the culture, at some stage, and that use increased with age. Statistics given are:

15.9% of 13-14 year olds;
19.0% of 15-16 year olds; and
25.5% of 17-18 year olds.

92. There has been a serious effort by the Government to eradicate the cultivation and use of marijuana, but the restrictions on this drug have resulted in the use of the more available hard drugs, e.g. cocaine and crack. The policies being pursued are now largely preventive and a vigorous education campaign is now being implemented in schools and communities by the National Council on Drug Abuse, which has the support of the private sector.

93. There is legislative, administrative and judicial provision for the prevention of sexual and other forms of exploitation of children, as well as their sale, trafficking and abduction. Legislative provision is included in the Offences Against the Person Act, the relevant sections of which are quoted below:

(a) Sexual exploitation and sexual abuse:

"58 (1) Any person who

"(a) procures or attempts to procure any girl or woman under eighteen years of age ... to have unlawful carnal connection, either within or without this island, with any other person or persons ... shall be guilty of a misdemeanour, and being convicted thereof, shall be liable to be imprisoned for a term not exceeding three years ..."

(b) Sale, trafficking and abduction:

"60 Any person who with intent that any unmarried girl under the age of eighteen years should be unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man, or generally, takes or causes to be taken such girl out of the possession and against the will of her father or mother, or any person having the lawful care or charge of her, shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for a term not exceeding three years, with or without hard labour ..."

94. Children belonging to a minority. No official provision is made for the protection of children in a minority or indigenous group because, given the structure of the society which has been described in the Introduction to this report, there is no group that can really be described as indigenous.

95. The Arawak Indians, who were the original population, were wiped out during the Spanish occupation in the fifteenth and sixteenth centuries. The ancestors of the people of African descent who are now in the majority came to the island as slaves in the sixteenth century, the Indians as indentured labourers in the nineteenth century and the ancestors of the population of Caucasian descent arrived, chiefly from Britain, as plantation owners. All these groups are now protected, as are their children, by the same laws, administered in the same courts and promulgated by a mixed Parliament.